

1 (7) EXEMPTIONS. Subsections (3) to (6) do not apply to withdrawals from the
2 Great Lakes basin or diversions for any of the following purposes:

3 (a) To supply vehicles, including vessels and aircraft, for the needs of the
4 persons or animals being transported or for ballast or other needs related to the
5 operation of the vehicles.

6 (b) To use in a noncommercial project that lasts no more than 3 months for fire
7 fighting, humanitarian, or emergency response purposes.

8 (7m) EMERGENCY ORDER. The department may, without a prior hearing, order
9 a person to whom the department has issued an individual permit or notice of
10 coverage under a general permit under this section or s. 281.344 to immediately stop
11 a withdrawal if the department determines that there is a danger of imminent harm
12 to the public health, safety, or welfare, to the environment, or to the water resources
13 or related land resources of this state. The order shall specify the date on which the
14 withdrawal must be stopped and the date, if any, on which it may be resumed. The
15 order shall notify the person that the person may request a contested case hearing
16 under ch. 227. The hearing shall be held as soon as practicable after receipt of a
17 request for a hearing. An emergency order remains in effect pending the result of
18 the hearing.

19 (8) STATEWIDE WATER CONSERVATION AND EFFICIENCY. (a) *Goals and objectives.*
20 The department shall specify water conservation and efficiency goals and objectives
21 for the waters of the state and for the waters of the Great Lakes basin. The
22 department shall specify goals and objectives for the waters of the Great Lakes basin
23 that are consistent with the goals under s. 281.343 (4b) (a) and the objectives
24 identified by the Great Lakes council under s. 281.343 (4b) (a) and (c). In specifying
25 these goals and objectives, the department shall consult with the department of

1 commerce and the public service commission and consider the water conservation
2 and efficiency goals and objectives developed in any pilot program conducted by the
3 department in cooperation with the regional body.

4 (b) *Statewide program.* In cooperation with the department of commerce and
5 the public service commission, the department shall develop and implement a
6 statewide water conservation and efficiency program that includes all of the
7 following:

8 1. Promotion of environmentally sound and economically feasible water
9 conservation measures through a voluntary statewide program.

10 1m. Mandatory and voluntary conservation and efficiency measures for the
11 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), (5),
12 (5m), and (6) and s. 281.348.

13 2. Water conservation and efficiency measures that the public service
14 commission requires or authorizes a water utility to implement under ch. 196.

15 3. Water conservation and efficiency measures that the department of
16 commerce requires or authorizes to be implemented under chs. 101 and 145.

17 (c) *Great Lakes basin program.* No later than the 24th month beginning after
18 the compact's effective date, the department shall implement a Great Lakes basin
19 water conservation and efficiency program as part of the statewide program under
20 par. (b), for all users of the waters of the Great Lakes basin, that is designed to
21 achieve the goals and objectives for the waters of the Great Lakes basin that are
22 specified under par. (a). The department shall include in the Great Lakes basin
23 program the activities in par. (b) 1. to 3. applicable in the Great Lakes basin and
24 application of the water conservation and efficiency measures specified under par.
25 (d) in subs. (4) (f) 6. and (g) and (6) (c).

1 (d) *Water conservation and efficiency measures.* The department shall
2 promulgate rules specifying water conservation and efficiency measures for the
3 purposes of implementing par. (b). In the rules, the department may not require
4 retrofitting of existing fixtures, appliances, or equipment. The department shall
5 specify measures based on all of the following:

6 1. The amount and type of diversion, withdrawal, or consumptive use and
7 whether the diversion, withdrawal, or consumptive use exists on the first day of the
8 84th month beginning after the effective date of this subdivision [revisor inserts
9 date], or the compact's effective date, whichever is earlier, is expanded, or is new.

10 2. The results of any pilot water conservation program conducted by the
11 department in cooperation with the regional body.

12 3. The results of any assessments under sub. (11) (d).

13 **(9) TRIBAL CONSULTATION; PUBLIC PARTICIPATION.** (a) *Tribal consultation.* The
14 department shall consult with a federally recognized American Indian tribe or band
15 in this state concerning a proposal that may affect the tribe or band and that is
16 subject to regional review or Great Lakes council approval under sub. (4) or (5).

17 (b) *Public Notice.* 1. The department shall, by rule, create procedures for
18 circulating to interested and potentially interested members of the public notices of
19 each complete application that the department receives under sub. (5) to which the
20 state decision-making standard under sub. (5m) or the compact decision-making
21 standard under sub. (6) applies, other than an application from a person operating
22 a public water supply system that is covered by an approved water supply service
23 area plan under s. 281.348, and each complete application that the department
24 receives under sub. (4) and of each general permit that the department proposes to

1 issue under sub. (4s) (a). The department shall include, in the rule, at least the
2 following procedures:

3 a. Publication of the notice as a class 1 notice under ch. 985.

4 b. Mailing of the notice to any person, group, local governmental unit, or state
5 agency upon request.

6 2. The department shall establish the form and content of a public notice by
7 rule. The department shall include in every public notice concerning an application
8 to which subd. 1. applies at least the following information:

9 a. The name and address of each applicant.

10 b. A brief description of the proposal for which the application is made,
11 including the amount of the proposed withdrawal or diversion.

12 c. A brief description of the procedures for the formulation of final
13 determinations on applications, including the 30-day comment period required
14 under par. (c).

15 (c) *Public comment.* The department shall receive public comments on a
16 proposal for which it receives an application to which par. (b) 1. applies or on a
17 proposed general permit under sub. (4s) (a) for a 30-day period beginning when the
18 department gives notice under par. (b) 1. The department shall retain all written
19 comments submitted during the comment period and shall consider the comments
20 in making its decisions on the application.

21 (d) *Public hearing.* 1. The department shall provide an opportunity for any
22 interested person or group of persons, any affected local governmental unit, or any
23 state agency to request a public hearing with respect to a proposal for which the
24 department receives an application under to which par. (b) 1. applies or on a proposed
25 general permit under sub. (4s) (a). A request for a public hearing shall be filed with

1 the department within 30 days after the department gives notice under par. (b). The
2 party filing a request for a public hearing shall indicate the interest of the party and
3 the reasons why a hearing is warranted. The department shall hold a public hearing
4 on a proposal for which the department receives an application to which par. (b) 1.
5 applies or on a proposed general permit under sub. (4s) (a) if the department
6 determines that there is a significant public interest in holding a hearing.

7 2. The department shall promulgate, by rule, procedures for the conduct of
8 public hearings held under this paragraph. A hearing held under this paragraph is
9 not a contested case hearing under ch. 227.

10 3. The department shall circulate public notice of any hearing held under this
11 paragraph in the manner provided under par. (b) 1.

12 (e) *Public access to information.* Any record or other information provided to
13 or obtained by the department regarding a proposal for which an application under
14 sub. (4) or (5) is received is a public record as provided in subch. II of ch. 19. The
15 department shall make available to and provide facilities for the public to inspect and
16 copy any records or other information provided to or obtained by the department
17 regarding a proposal for which an application for a new or increased diversion or
18 withdrawal under sub. (4) or (5) is received, except that any record or other
19 information provided to the department may be treated as confidential upon a
20 showing to the secretary that the record or information is entitled to protection as
21 a trade secret, as defined in s. 134.90 (1) (c), or upon a determination by the
22 department that domestic security concerns warrant confidential treatment.
23 Nothing in this subsection prevents the use of any confidential records or
24 information obtained by the department in the administration of this section in

1 compiling or publishing general analyses or summaries, if the analyses or
2 summaries do not identify a specific owner or operator.

3 (h) *Expediting review.* The department shall take appropriate measures to
4 expedite, to the extent feasible, applicable reviews by the regional body, Great Lakes
5 council, parties, and the provinces of Ontario and Quebec of applications under this
6 section that are subject to regional review.

7 (10m) AMENDMENT OF COASTAL MANAGEMENT PROGRAM. (a) The Wisconsin
8 coastal management council, created under s. 14.019, shall amend this state's
9 coastal management program submitted to the U.S. secretary of commerce under 16
10 USC 1455, to incorporate the requirements of this section, as they apply to the water
11 resources of the Great Lakes basin, and shall formally submit the proposed
12 amendments to the U.S. secretary of commerce.

13 (b) After approval of the amendments submitted to the U.S. secretary of
14 commerce under par. (a), the Wisconsin coastal management council shall, when
15 conducting federal consistency reviews under 16 USC 1456 (c), consider the
16 requirements specified under par. (a), if applicable.

17 (c) If the department issues a permit for a withdrawal to which this section
18 applies, and the withdrawal is subject to a federal consistency review under 16 USC
19 1456 (c), the Wisconsin coastal management council shall certify that the withdrawal
20 is consistent with this state's coastal management program.

21 (11) INFORMATION, REPORTS, AND ASSESSMENTS. (a) *Statewide inventory.* 1. The
22 department shall develop and maintain a water resources inventory consisting of
23 information about the waters of the state including information about the location,
24 type, quantity, and uses of water resources and the location, and type of diversions,
25 withdrawals, and consumptive uses and quantities of withdrawals and water losses.

1 The department shall develop the inventory in cooperation with federal and local
2 governmental entities, agencies of this state and of the other parties, tribal agencies,
3 and private entities. The department shall use information in the registry under
4 sub. (3) (c) in creating the inventory.

5 2. The department shall create the water resources inventory under subd. 1.
6 no later than the first day of the 72nd month beginning after the effective date of this
7 subdivision [revisor inserts date], or the first day of the 60th month beginning
8 after the compact's effective date whichever is later.

9 (b) *Annual report on water resources.* Beginning within 60 months after the
10 compact's effective date, the department shall annually report to the Great Lakes
11 council the information from par. (a) regarding withdrawals that average 100,000
12 gallons per day or more over a 30-day period, including consumptive uses, in the
13 basin and any diversions, as well as the amounts of the withdrawals, water losses
14 from consumptive uses, and diversions in the basin reported under sub. (3) (e).

15 (c) *Program report.* No later than 12 months after the compact's effective date,
16 and every 5 years thereafter, the department shall submit a report to the Great Lakes
17 council and the regional body describing the implementation of the program under
18 this section, including the manner in which withdrawals from the Great Lakes basin
19 are managed, how the criteria for approval under subs. (4), (5), and (6) are applied,
20 and how conservation and efficiency measures are implemented.

21 (d) *Assessment of water conservation and efficiency program.* After the
22 compact's effective date, the department shall annually assess the effectiveness of
23 the water conservation and efficiency program under sub. (8) (c) in meeting the Great
24 Lakes basin water conservation and efficiency goals under sub. (8) (a). In each
25 assessment, the department shall consider whether there is a need to adjust the

1 Great Lakes basin water conservation and efficiency program in response to new
2 demands for water from the basin and the potential impacts of the cumulative effects
3 of diversions, withdrawals, and consumptive uses and of climate. The department
4 shall provide the assessment to the Great Lakes council and the regional body and
5 make it available to the public.

6 (e) *Assessment of cumulative impacts.* The department shall participate in the
7 periodic assessment of the impacts of withdrawals, diversions, and consumptive uses
8 under s. 281.343 (4z) (a).

9 (f) *Report on threshold.* No later than the 60th month beginning after the
10 compact's effective date, the department shall submit to the legislature under s.
11 13.172 (2) a report analyzing the impact of the threshold under sub. (5) (a) and
12 providing any recommendations to change the threshold.

13 (g) *Water use report.* Beginning no later than 8 years after the effective date
14 of this paragraph [revisor inserts date], or 5 years after the last report published
15 under s. 281.344 (11), whichever is earlier, and every 5 years thereafter, the
16 department, using water use data reported under this section, shall publish a water
17 use report to summarize water usage, identify related trends, identify areas of future
18 water usage concerns, and recommend future actions to promote sustainable water
19 use. The department shall also include in the report water resource information
20 derived from reporting and data accumulation requirements under other water
21 regulatory laws.

22 **(13m) EXCEEDANCES.** It is not a violation of this section to withdraw an amount
23 of water that exceeds the withdrawal amount specified in a permit issued under sub.
24 (5) or in the database under sub. (4s) (i), unless the amount by which the withdrawal
25 exceeds the withdrawal amount would result in the application of the state

1 decision-making standard under sub. (5m) or the compact decision-making
2 standard under sub. (6).

3 (14) PENALTIES. (a) Any person who violates this section or any rule
4 promulgated or approval issued under this section shall forfeit not less than \$10 nor
5 more than \$10,000 for each violation. Each day of continued violation is a separate
6 offense.

7 (c) In addition to the penalties under par. (a), the court may order the defendant
8 to abate any nuisance, restore a natural resource, or take, or refrain from taking, any
9 other action as necessary to eliminate or minimize any environmental damage
10 caused by the violation.

11 **SECTION 19.** 281.348 of the statutes is created to read:

12 **281.348 Water supply service area plans for public water supply**
13 **systems.** (1) DEFINITIONS. In this section:

14 (a) “Compact’s effective date” means the effective date of the Great Lakes—St.
15 Lawrence River Basin Water Resources Compact under s. 281.343 (9) (d).

16 (b) “Cost-effectiveness analysis” means a systematic comparison of alternative
17 means of providing a water supply in order to identify alternatives that will minimize
18 total resources costs and maximize environmental benefits over a planning period.

19 (c) “Great Lakes basin” means the watershed of the Great Lakes and the St.
20 Lawrence River upstream from Trois—Rivieres, Quebec.

21 (d) “Public water supply” means water distributed to the public through a
22 physically connected system of treatment, storage, and distribution facilities that
23 serve a group of largely residential customers and that may also serve industrial,
24 commercial, and other institutional customers.

1 (e) “Total resources costs” includes monetary costs and direct and indirect
2 environmental as well as other nonmonetary costs.

3 (f) “Withdraw” means to take water from surface water or groundwater.

4 (g) “Withdrawal” means the taking of water from surface water or
5 groundwater, including the taking of surface water or groundwater for the purpose
6 of bottling the water.

7 **(2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS.** (a) For the
8 purposes of this section, the surface water divide is used to determine whether a
9 withdrawal of surface water or groundwater is from the Great Lakes basin.

10 (b) For the purposes of this section, the withdrawal of water from more than
11 one source within the Great Lakes basin to supply a common distribution system is
12 considered one withdrawal.

13 **(3) REQUIREMENTS.** (a) 1. The department shall establish, by rule, and
14 administer a continuing water supply planning process for the preparation of water
15 supply plans for persons operating public water supply systems. The period covered
16 by a plan under this subsection may not exceed 20 years. A regional planning
17 commission may prepare plans for persons operating public water supply systems.

18 2. A person operating a public water supply system that serves a population
19 of 10,000 or more and that withdraws water from the waters of the state shall have
20 an approved plan under this section no later than December 31, 2025.

21 (b) The department shall include in the process under par. (a) procedures and
22 requirements for all of the following:

23 1. Public review and comment on a proposed plan. For a plan submitted after
24 the compact’s effective date covering a public water supply system that withdraws

1 water from the Great Lakes basin, the procedures and requirements under this
2 subdivision shall be consistent with s. 281.343 (6) (b).

3 2. Approval of a plan by the governing body of each city, village, and town whose
4 public water supply is addressed by the plan before the plan is submitted to the
5 department.

6 2m. Approval of a plan by the department.

7 3. Ensuring that plans remain current.

8 4. Intergovernmental cooperation.

9 5. Reopening or reconsideration by the department of a previously approved
10 plan.

11 (bm) A person preparing a plan under par. (a) shall consider existing regional
12 water needs assessments and other regional water supply planning information.

13 (c) A person preparing a plan under par. (a) shall include all of the following
14 in the plan:

15 1. Delineation of the area for which the plan is being prepared and proposed
16 water supply service areas for each public water supply system making a withdrawal
17 covered by the plan, except as provided in par. (cm).

18 2. An inventory of the sources and quantities of the current water supplies in
19 the area.

20 3. A forecast of the demand for water in the area over the period covered by the
21 plan.

22 3m. Identification of the existing population and population density of the area
23 for which the plan is prepared and forecasts of the expected population of the area
24 during the period covered by the plan based on growth projections for the area and
25 municipally planned population densities.

1 4. Identification of the options for supplying water in the area for the period
2 covered by the plan that are approvable under other applicable statutes and rules
3 and that are cost-effective based upon a cost-effectiveness analysis of regional and
4 individual water supply and water conservation alternatives.

5 5. An assessment of the environmental and economic impacts of carrying out
6 specific significant recommendations of the plan.

7 6. A demonstration that the plan will effectively utilize existing water supply
8 storage and distribution facilities and wastewater infrastructure to the extent
9 practicable.

10 7. Identification of the procedures for implementing and enforcing the plan and
11 a commitment to using those procedures.

12 8. An analysis of how the plan supports and is consistent with any applicable
13 comprehensive plans, as defined in s. 66.1001 (1) (a), and applicable approved
14 areawide water quality management plans under s. 283.83.

15 9. Other information specified by the department.

16 (cm) For the purposes of plans under par. (a), an areawide water quality
17 planning agency designated by the governor under ch. NR 121, Wis. Adm. Code, shall
18 delineate the proposed water supply service areas for all of the public water supply
19 systems in the planning area for which the agency is designated. An areawide water
20 quality planning agency shall delineate proposed water supply service areas that are
21 consistent with the approved areawide water quality management plan under s.
22 283.83 for the planning area and that permit the development of plans that are
23 approvable under par. (d). An areawide water quality planning agency may also
24 provide regional water needs assessments and other regional water supply planning
25 information. The process for conducting regional activities under this subsection

1 may be the same as the process for regional water supply planning for a groundwater
2 management area designated under s. 281.34 (9).

3 (d) The department may not approve a plan under this subsection unless all
4 of the following apply:

5 1. The plan provides for a water supply system that is approvable under this
6 section and other applicable statutes and rules based on a cost-effectiveness
7 analysis of regional and individual water supply and water conservation
8 alternatives.

9 2. The plan will effectively utilize existing water supply storage and
10 distribution facilities and wastewater infrastructure to the extent practicable.

11 3. The plan is consistent with any applicable comprehensive plans, as defined
12 in s. 66.1001 (1) (a).

13 4. The plan is consistent with any applicable approved areawide water quality
14 management plans under s. 283.83.

15 5. Beginning on the compact's effective date, if the plan covers a public water
16 supply system that withdraws water from the Great Lakes basin, the plan complies
17 with any applicable requirements in s. 281.346 (5e).

18 (e) The department shall specify in a plan under this section a water supply
19 service area for each public water supply system making a withdrawal covered by
20 the plan. The department may not limit water supply service areas based on
21 jurisdictional boundaries, except as necessary to prevent waters of the Great Lakes
22 basin from being transferred from a county that lies completely or partly within the
23 Great Lakes basin into a county that lies entirely outside the Great Lakes basin.

1 (f) A person applying for an approval under s. 281.344 (4) or 281.346 (4) may
2 use elements of an approved plan under this subsection to show compliance with
3 requirements under s. 281.344 (4) or 281.346 (4) to which the plan is relevant.

4 (4) WITHDRAWAL AMOUNT IN CERTAIN PLANS. In a plan under this section that
5 covers a public water supply system making a withdrawal from the Great Lakes
6 basin, the department shall specify a withdrawal amount for the public water supply
7 system equal to the greatest of the following:

8 (a) The amount needed for the public water supply system to provide a public
9 water supply in the water supply service area in the plan during the period covered
10 by the plan, as determined using the population and related service projections in
11 the plan.

12 (b) If the withdrawal is covered by an individual permit issued under s. 281.344
13 (5) or 281.346 (5) when the department approves the plan, the withdrawal amount
14 in that permit when the department approves the plan or, if the withdrawal is
15 covered by a general permit issued under s. 281.344 (4s) or 281.346 (4s) when the
16 department approves the plan, the withdrawal amount for the public water supply
17 system in the database under s. 281.346 (4s) (i) when the department approves the
18 plan.

19 **SECTION 20.** 281.35 (1) (a) of the statutes is amended to read:

20 281.35 (1) (a) "Approval" means a permit issued under s. 30.18, 281.344 (5), or
21 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.

22 **SECTION 21.** 281.35 (1) (b) 2. of the statutes, as affected by 2007 Wisconsin Act
23 96, is amended to read:

24 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
25 over any 30-day period that is reported to the department ~~or the public service~~

1 ~~commission under sub. (3) (e) or s. 281.17, 2001 stats., or s. 30.18 (6) (c), 196.98,~~
2 ~~281.34, 281.344 (5), 281.346 (5), or 281.41.~~

3 **SECTION 22.** 281.35 (1) (bm) of the statutes is created to read:

4 281.35 (1) (bm) “Compact’s effective date” means the effective date of the Great
5 Lakes—St. Lawrence River Basin Water Resources Compact under s. 281.343.

6 **SECTION 23.** 281.35 (1) (cm) of the statutes is created to read:

7 281.35 (1) (cm) “Facility” means an operating plant or establishment providing
8 electricity to the public or carrying on any manufacturing activity, trade, or business
9 on one site, including similar plants or establishments under common ownership or
10 control located on contiguous properties.

11 **SECTION 24.** 281.35 (2) (a) of the statutes is repealed.

12 **SECTION 25.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2) and
13 amended to read:

14 281.35 (2) In calculating the total amount of an existing or proposed water loss
15 for purposes of determining the applicability of sub. (4), a person shall include all
16 separate interbasin diversions and consumptive uses, or combinations thereof,
17 which the person makes or proposes to make ~~for a single use or for related uses to~~
18 supply a single facility or public water supply system.

19 **SECTION 26.** 281.35 (3) of the statutes is repealed.

20 **SECTION 27.** 281.35 (4) (a) 4. of the statutes is created to read:

21 281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
22 has been issued or who is required to obtain a permit under one of those provisions
23 before beginning or increasing a withdrawal.

24 **SECTION 28.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

1 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
2 withdrawal or increase the amount of an existing withdrawal, the person shall apply
3 to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new
4 approval or a modification of its existing approval if either of the following conditions
5 applies:

6 **SECTION 29.** 281.35 (5) (a) 13. of the statutes is amended to read:

7 281.35 (5) (a) 13. A statement as to whether the proposed withdrawal complies
8 with all applicable plans for the use, management and protection of the waters of the
9 state and related land resources, including plans developed under ss. ~~281.12 (1) and~~
10 s. 283.83 and the requirements specified in any water quantity resources plan under
11 ~~sub. (8).~~

12 **SECTION 30.** 281.35 (5) (b) of the statutes is amended to read:

13 281.35 (5) (b) *Great Lakes basin; consultation required.* If the department
14 receives an application before the compact's effective date that, if approved, will
15 result in a new water loss to the Great Lakes basin averaging more than 5,000,000
16 gallons per day in any 30-day period, or an increase in an existing withdrawal that
17 will result in a water loss averaging 5,000,000 gallons per day in any 30-day period
18 above the applicant's authorized base level of water loss, the department shall notify
19 the office of the governor or premier and the agency responsible for management of
20 water resources in each state and province of the Great Lakes region and, if required
21 under the boundary water agreement of 1909, the international joint commission.
22 The department shall also request each state and province that has cooperated in
23 establishing the regional consultation procedure under sub. ~~(11)–(f)~~ (11m) to
24 comment on the application. In making its determination on an application, the

1 department shall consider any comments that are received within the time limit
2 established under par. (c).

3 **SECTION 31.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

4 281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am), if an
5 application is approved under sub. (5), the department shall modify the applicant's
6 existing approval or shall issue a new approval that specifies all of the following:

7 **SECTION 32.** 281.35 (6) (am) of the statutes is created to read:

8 281.35 (6) (am) *Water loss permit.* If the department approves an application
9 under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s.
10 281.346 (5) and another approval, the department shall modify the permit under s.
11 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters
12 under par. (a).

13 **SECTION 33.** 281.35 (6) (f) of the statutes is amended to read:

14 281.35 (6) (f) *Notice; right to hearing.* The department shall notify the person
15 to whom the approval has been issued and any other person who has in writing
16 requested notice of the receipt of a request to modify an approval or of the
17 department's intent to modify or revoke an approval. The person to whom the
18 approval is issued is entitled to a contested case hearing under ch. 227 before a
19 revocation or modification takes effect. Any other person who may be adversely
20 affected by a proposed modification is entitled to a contested case hearing under ch.
21 227 before a modification takes effect.

22 **SECTION 34.** 281.35 (8) of the statutes is repealed.

23 **SECTION 35.** 281.35 (9) (a) of the statutes is amended to read:

24 281.35 (9) (a) The Wisconsin coastal management council, established under
25 executive order number 62, dated August 2, 1984, shall amend this state's coastal

1 management program submitted to the U.S. secretary of commerce under 16 USC
2 1455, to incorporate the requirements of this section and, before the compact's
3 effective date, s. 281.344 and the findings and purposes specified in 1985 Wisconsin
4 Act 60, section 1, as they apply to the water resources of the Great Lakes basin, and
5 shall formally submit the proposed amendments to the U.S. secretary of commerce.

6 **SECTION 36.** 281.35 (9) (d) of the statutes is created to read:

7 281.35 (9) (d) This subsection does not apply after the compact's effective date.

8 **SECTION 37.** 281.35 (10) (a) 4. of the statutes is repealed.

9 **SECTION 38.** 281.35 (11) (intro.) of the statutes is amended to read:

10 281.35 (11) COOPERATION WITH OTHER STATES AND PROVINCES. (intro.) The Before
11 the compact's effective date, the department shall do all of the following:

12 **SECTION 39.** 281.35 (11) (f) of the statutes is renumbered 281.35 (11m) and
13 amended to read:

14 281.35 (11m) UPPER MISSISSIPPI RIVER BASIN CONSULTATION. Participate The
15 department shall participate in the development of an upper Mississippi River basin
16 regional consultation procedure for use in exchanging information on the effects of
17 proposed water losses from that basin.

18 **SECTION 40.** 281.35 (12) (c) of the statutes is amended to read:

19 281.35 (12) (c) This state reserves the right to seek, in any state, federal or
20 provincial forum, an adjudication of the equitable apportionment of the water
21 resources of the ~~Great Lakes basin or upper Mississippi River basin~~ and, before the
22 compact's effective date, of the Great Lakes basin, and the protection and
23 determination of its rights and interests in those water resources, in any manner
24 provided by law.

25 **SECTION 41.** 281.41 (1) (c) of the statutes is amended to read:

1 281.41 (1) (c) Construction or material change shall be according to approved
2 plans only. The department may disapprove plans that are not in conformance with
3 any existing approved areawide waste treatment management plan prepared
4 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and
5 shall disapprove plans that do not meet the grounds for approval specified under s.
6 281.35 (5) (d), if applicable. ~~The department shall require each person whose plans~~
7 ~~are approved under this section to report that person's volume and rate of water~~
8 ~~withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of~~
9 ~~water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times~~
10 ~~specified by the department. The department shall disapprove plans that are not in~~
11 ~~conformance with any applicable approved water supply service area plan under s.~~
12 ~~281.348.~~

13 **SECTION 42.** 281.41 (4) of the statutes is created to read:

14 281.41 (4) When the department receives for review a plan under sub. (1) that
15 would result in returning water transferred from the Great Lakes basin to the source
16 watershed through a stream tributary to one of the Great Lakes, the department
17 shall provide notice of the plan or revision to the governing body of each city, village,
18 and town through which the stream flows or that is adjacent to the stream
19 downstream from the point at which the water would enter the stream.

20 **SECTION 43.** 281.93 of the statutes is created to read:

21 **281.93 Hearings on certain water use actions.** (1) PERMIT OR APPROVAL
22 HOLDER OR APPLICANT; ORDER RECIPIENT. Any permit or approval, part of a permit or
23 approval, condition or requirement in a permit or approval, order, decision or
24 determination by the department under s. 281.344, 281.346, or 281.35 shall become

1 effective unless the permit or approval holder or applicant or the order recipient
2 seeks a hearing challenging the action in the following manner:

3 (a) *Petition.* The person seeking a hearing shall file a petition with the
4 department within 30 days after the date of the action sought to be reviewed. The
5 petition shall set forth specifically the issue sought to be reviewed, the interest of the
6 petitioner, the reasons why a hearing is warranted, and the relief desired. Upon
7 receipt of the petition, the department shall hold a hearing after at least 10 days'
8 notice.

9 (b) *Hearing.* The hearing shall be a contested case under ch. 227. At the
10 beginning of the hearing the petitioner shall present evidence in support of the
11 allegations made in the petition. Following the hearing the department's action may
12 be affirmed, modified, or withdrawn.

13 (1m) EFFECT OF A CHALLENGE. If a permit or approval holder or applicant seeks
14 a hearing challenging part of a permit or approval or a condition or requirement in
15 a permit or approval under sub. (1), the remainder of the permit or approval shall
16 become effective and the permit or approval holder or applicant may, at its discretion,
17 begin the activity for which the application was submitted or for which the permit
18 or approval was issued.

19 (2) OTHER PERSONS. Except as provided in ss. 281.344 (4e) (g) and 281.346 (4e)
20 (g), any person who is not entitled to seek a hearing under sub. (1) (intro.) and who
21 meets the requirements of s. 227.42 (1) or who submitted comments in the public
22 comment process under s. 281.344, 281.346, or 281.35 may seek review under sub.
23 (1) of any permit or approval, part of a permit or approval, order, decision, or
24 determination by the department under s. 281.344, 281.346, or 281.35.

1 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing on the
2 matter is conducted as a part of a hearing under s. 293.43.

3 **SECTION 44.** 281.94 (1) of the statutes is amended to read:

4 281.94 (1) Any 6 or more residents of this state may petition for an
5 investigation of a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ alleged to be in
6 violation of s. 281.35 (3) (a), 281.344 (3) (a), or 281.346 (3) (a), in violation of a
7 condition, limitation or restriction of a permit or approval issued in conformance
8 with s. 281.35 (6) (a) or in violation of any rule promulgated under s. 281.35 (3) (a)
9 ~~or (4) to (6), 281.344 (3) (a), or 281.346 (3) (a)~~ by submitting to the department a
10 petition identifying the alleged violator and setting forth in detail the reasons for
11 believing a violation occurred. The petition shall state the name and address of a
12 person in this state authorized to receive service of answer and other papers on
13 behalf of the petitioners and the name and address of a person authorized to appear
14 at a hearing on behalf of the petitioners.

15 **SECTION 45.** 281.95 of the statutes is amended to read:

16 **281.95 Remedies; water withdrawal violations.** Any person who makes
17 a withdrawal, ~~as defined under s. 281.35 (1) (m),~~ in violation of s. 281.35 (3) (a),
18 281.344 (3) (a), or 281.346 (3) (a), in violation of a condition, limitation or restriction
19 of a permit or approval issued in conformance with s. 281.35 (6) (a) or in violation of
20 any rule promulgated under s. 281.35 (3) (a) ~~or (4) to (6), 281.344 (3) (a), or 281.346~~
21 (3) (a) is liable to any person who is adversely affected by the withdrawal for damages
22 or other appropriate relief. Any person who is or may be adversely affected by an
23 existing or proposed withdrawal, ~~as defined under s. 281.35 (1) (m),~~ which is in
24 violation of a condition, limitation or restriction of a permit or approval issued in
25 conformance with s. 281.35 (6) (a) or in violation of any rule promulgated under s.

1 281.35 (4) to (6) may bring an action in the circuit court to restrain or enjoin the
2 withdrawal.

3 **SECTION 46.** 281.98 (1) of the statutes is amended to read:

4 281.98 (1) Except as provided in ss. 281.344 (14) (a), 281.346 (14) (a), 281.47
5 (1) (d), 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule
6 promulgated or any plan approval, license, special order, or water quality
7 certification issued under this chapter shall forfeit not less than \$10 nor more than
8 \$5,000 for each violation. Each day of continued violation is a separate offense.
9 While an order is suspended, stayed, or enjoined, this penalty does not accrue.

10 **SECTION 47.** 283.41 (3) of the statutes is created to read:

11 283.41 (3) When the department receives an application for a permit for a
12 discharge that would return water transferred from the Great Lakes basin to the
13 source watershed through a stream tributary to one of the Great Lakes, the
14 department shall provide notice of the application to the governing body of each city,
15 village, and town through which the stream flows or that is adjacent to the stream
16 downstream from the point at which the water would enter the stream.

17 **SECTION 48.** 283.83 of the statutes is renumbered 283.83 (1).

18 **SECTION 49.** 283.83 (2) of the statutes is created to read:

19 283.83 (2) When the department receives for review or prepares a new plan
20 under sub. (1) or a revision to a plan under sub. (1) that includes a proposal to return
21 water transferred from the Great Lakes basin to the source watershed through a
22 stream tributary to one of the Great Lakes, the department shall provide notice of
23 the plan or revision to the governing body of each city, village, and town through
24 which the stream flows or that is adjacent to the stream downstream from the point
25 at which the water would enter the stream.

1 **SECTION 50.** 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are amended
2 to read:

3 **293.65 (title) Diversion Withdrawal of surface waters; withdrawal of**
4 **groundwater; damage claims.** (1) SCOPE. This section governs the withdrawal
5 ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or
6 mining. Discharges of waters are subject to ch. 283, construction of necessary dams
7 or other structures is subject to chs. 30 and 31 and construction of wells is subject to
8 ch. 280, to the extent applicable.

9 **(2) (title) DIVERSION WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED.** (a) Any
10 person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall
11 apply to the department for a permit. The forms and procedures used under s. 30.18
12 apply to the extent practicable.

13 (b) The department, upon receipt of an application for a permit, shall determine
14 the minimum stream flow or lake level necessary to protect public rights, the
15 minimum flow or level necessary to protect the rights of affected riparians, the point
16 downstream beyond which riparian rights are not likely to be injured by the proposed
17 ~~diversion~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d),
18 if any, at the point of the proposed ~~diversion~~ withdrawal.

19 **SECTION 51.** 293.65 (2) (c) 1. of the statutes is amended to read:

20 293.65 (2) (c) 1. The public rights in the lake or stream and the related
21 environment which may be injured by the proposed ~~diversion~~ withdrawal;

22 **SECTION 52.** 293.65 (2) (d) 2. of the statutes is amended to read:

23 293.65 (2) (d) 2. If the proposed ~~diversion~~ withdrawal will consume nonsurplus
24 waters, and will unreasonably injure rights of riparians identified by par. (b) who are

beneficially using such waters, the permit shall be denied unless a permit is granted under par. (e) or all such riparians consent to the proposed ~~diversion~~ withdrawal.

SECTION 53. 293.65 (2) (e) of the statutes is amended to read:

293.65 (2) (e) The department may require modification of a proposed ~~diversion~~
withdrawal so as to avoid injury to public or riparian rights, and as modified, may
grant the permit.

SECTION 54. 293.65 (2) (f) of the statutes is amended to read:

293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued under this subsection may be used on nonriparian property.

SECTION 55. 293.65 (2) (h) of the statutes is amended to read:

293.65 (2) (h) Hearings on applications for ~~diversion~~ withdrawal permits under this subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 293.37.

SECTION 56. Nonstatutory provisions.

(1) SUBMISSION OF PROPOSED RULES. The department of natural resources shall submit in proposed form the rules required under section 281.344 (4) (g) and 281.348 (3) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 18th month beginning after the effective date of this subsection.

(END)